

REMARKS

This responds to the Office Action mailed on 30 November 2009. Claims 1, 11, 24, 38, 39 and 44 are amended. The amendments are supported by at least FIG. 1 and the related description of the block and tackle orientation throughout the present application. No new matter has been added. Claims 1-28 and 38-44 remain pending in the application.

Claim Rejections – 35 U.S.C. § 103

Claims 1-28 and 38-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,662,681 to Nash et al. in view of U.S. Patent No. 5,021,059 to Kensey et al. Applicant respectfully traverses this rejection.

Claim 1 as amended recites “a first filament extending from a distal end of the block and tackle; . . . and the tackle comprises a continuous filament that is distinct from the first filament.” Claim 11 as amended recites “a block and tackle . . . operatively connected to the internal and external components with the first filament, the first filament extending from a distal end of the block and tackle, . . . and the tackle comprises a continuous filament that is distinct from the first filament.” Claim 24 as amended recites “a block and tackle . . . operatively connected at a distal end thereof to the biologically resorbable filament . . . , wherein the tackle comprises a continuous filament that is distinct from the biologically resorbable filament.” Claim 38 as amended recites “the first filament connecting a distal portion of the block and tackle to the anchor and the sealing plug, . . . and the tackle comprises a continuous second filament that is distinct from the first filament.” Claim 44 as amended recites “a first filament extending from a distal end of the block and tackle; . . . wherein the block and tackle includes a second filament, the second filament being distinct from the first filament.” Nash and Kensey, alone or in

combination, fail to disclose or render obvious at least these limitations of claims 1, 11, 24, 38 and 44.

Nash discloses a closure device 20 that includes a plug 30, an anchor member 32, a filament 34, a locking member 36, a tamper member 106, and a holding sleeve 110. The filament passes through the holding sleeve 110 and the tamper member 106, through a first hole in the locking member 36, through a first set of holes in the plug 30, through a first hole in the anchor 32, back through a second hole in the anchor 32, through a second pair of holes in the plug 30, through a second hole in the locking member 36, and back through a third hole in the locking member 36 where the filament terminates in a knot 34E.

The filament 34 is the only filament disclosed by Nash. The device 20 is operable only if the filament extends through each of the plug 30, anchor member 32, locking member 36, tamper member 106, and holding sleeve 110, and then doubles back through the anchor member 32 and plug 30 to the locking member 36. This arrangement permits locking of the locking member 36 in a set axial position relative to the plug 30 and anchor 32 after being advanced distally along the filament 34 with the tamper member 106 while pulling proximally on a proximal end of the filament 34. Nash actually teaches away from providing two separate filaments because the filament 34 must be accessible by the operator at a location proximal of the holding sleeve 110 for pulling proximally in order to cinch the plug 30 and anchor member 32 together.

Nash also clearly fails to disclose or suggest a "block and tackle" as acknowledged by the Examiner. Because Nash fails to disclose or suggest a block and tackle, Nash also fails to disclose that the filament extends distally from or is connected to a distal end of the block and tackle. As noted above, the filament disclosed by Nash extends to a proximal end of the device

where it is exposed for pulling proximally by the operator. Further, because Nash fails to disclose or suggest a block and tackle, Nash also fails to disclose or suggest that “the tackle comprises a continuous filament that is distinct from the first filament” (claims 1, 11, 24 and 38) or that “the block and tackle includes a second filament, the second filament being distinct from the first filament” (claim 44).

Kensey fails to remedy the deficiencies of Nash as it relates to claims 1, 11, 24, 38 and 44. The Examiner contends that Kensey discloses the use of a block and tackle providing a mechanical advantage. However, Kensey is limited in its disclosure to various arrangements of attaching a plug component 304 to an anchoring component 302 using a filament 206. While Kensey touts that some of the arrangements shown in FIGS. 8-12 provide a mechanical advantage of at least two, there is no teaching or suggestion by Kensey or Nash of providing a separate block and tack arrangement (which includes a separate and distinct filament) from the typical anchor, sealing plug, and filament arrangement used to close and seal a tissue puncture.

Kensey, like Nash, clearly fails to disclose a block and tackle in addition to an anchor, sealing plug, and first filament arrangement, wherein “the tackle comprises a continuous filament that is distinct from the first filament” (claims 1, 11, 24 and 38) or “the block and tackle includes a second filament, the second filament being distinct from the first filament” (claim 44). Furthermore, Kensey fails to disclose a filament separate from a filament of the block and tackle that extends from or is connected to a distal end of a block and tackle, as recited in claims 1, 11, 24, 38 and 44.

Therefore, Nash and Kensey, alone or in combination, fail to disclose or render obvious every limitation of claims 1, 11, 24, 38 and 44.

Claims 2-10, 12-23, 25-28 and 39-43 depend either directly or indirectly from claims 1, 11, 24 and 38, and are allowable for at least the reason they depend from an allowable base claim. Applicant submits that claims 2-10, 12-23, 25-28 and 39-43 are allowable for reasons in addition to their dependence upon an allowable base claim.


Conclusion

For at least the foregoing reasons, Applicant believes that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicant respectfully requests a favorable action on the merits. If there remain any unresolved issues, Applicant invites the Examiner to telephone the undersigned attorney to expedite the handling of this matter.

Applicant expressly disclaims all arguments, representations, and/or amendments presented or contained in any other patent or patent application, including any patents or patent applications claimed for priority purposes by the present application or any patents or patent applications that claim priority to this patent application. Moreover, all arguments, representations, and/or amendments presented or contained in the present patent application are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application.

Respectfully submitted,

Date: 1 MARCH 2010



T. Grant Foster
Registration No. 33,236